

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201501700	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 12/26/2014 10:39 PM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 6/26/2016	EO SOL 6/26/2016	
Date/Time CV Reported Wed, 02/25/2015 3:34 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 03/09/2015 2:25 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			044 PCT
2. POM Ivan Angeles	06975	948619	044 PCT
3. SSA Miguel Sanchez	02409	918280	044 PCT
4. An officer			044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shane Curran	12634	950263	044 PCT
2. SGT Diego Vivar	05613	937698	044 PCT
3. SGT Roy Simmons	3381	931223	044 PCT
4. SGT Kevin Grayson	02293	921393	044 PCT
5. SGT Franklin Salinas	5151	940693	PBBX
6. POM Michael Rivera	26688	948413	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
B. POM Ivan Angeles	Abuse: PO Ivan Angeles searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
C. SSA Miguel Sanchez	Abuse: Sgt. Miguel Sanchez searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
D. An officer	Abuse: An officer searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(g)	§ 87(2)(g)

Case Summary

On March 9, 2015, the CCRB received the complaint of § 87(2)(b) which was mailed from his home (Board Review 01). § 87(2)(b) On April 30, 2015, § 87(2)(b) provided an in-person statement at § 87(2)(b) (Board Review 02). On May 4, 2015, § 87(2)(b) provided a statement over the phone (Board Review 03). Their statements are combined with the investigative findings into the following narrative:

On December 26, 2014, § 87(2)(b) and § 87(2)(b) were in their home at § 87(2)(b) in the Bronx. § 87(2)(b) is § 87(2)(b)'s boyfriend, and she had recently broken up with § 87(2)(a) Gen.Mun. §50- § 87(2)(b), who had previously lived in the apartment and with whom she had an acrimonious relationship.

Around 10:00PM, § 87(2)(b) went to the apartment, telling § 87(2)(b) and § 87(2)(b) that he needed to retrieve his clothes that were still in the apartment. Both § 87(2)(b) and § 87(2)(b) were reluctant to let him in, given the abusive nature of his relationship with § 87(2)(b). However, § 87(2)(b) became belligerent and upset, attempting to force his way inside the apartment from the bathroom.

§ 87(2)(b) went to the bathroom, where the two men fought. § 87(2)(b) threatened § 87(2)(b) with a handgun. § 87(2)(b) stabbed § 87(2)(b) in the face with a knife. § 87(2)(b) then left the apartment in agony from the front door, calling 911 as soon as he left the building.

§ 87(2)(b) reported that he had been stabbed in the face by a Hispanic male wearing a white T-shirt and black sweatpants, a description § 87(2)(b) matched. § 87(2)(b) provided the apartment to the operator.

Immediately afterward, multiple units of the 44th Precinct responded. PO Shane Curran and PO Ivan Angeles were among the first to arrive, and they found § 87(2)(b) at the scene. After confirming that § 87(2)(b) was the 911 caller and where the incident took place, they went to the apartment and knocked on the door. After § 87(2)(b) answered the door, the officers had him step outside in the hallway, where he was arrested. PO Curran and PO Angeles took § 87(2)(b) outside to their RMP. § 87(2)(b) who by this time was being treated by EMS, positively identified § 87(2)(b) as the perpetrator from the ambulance vehicle.

By this time, multiple officers, both in uniform and plainclothes, had responded to the report and entered the apartment, performing a visual inspection of all the rooms, immediately after § 87(2)(b) had been apprehended (**Allegation A**). After PO Curran secured § 87(2)(b) in his RMP, PO Angeles returned to the apartment, entered, and partook in the search, opening two drawers of a bathroom cabinet (**Allegation B**).

Among the last to arrive was Sgt. Miguel Sanchez, the Anti-Crime supervisor. He was accompanied by PO Steven Cruver and PO Sean Kelly. The officers, under Sgt. Sanchez's command, also entered the apartment. The officers went directly to the one bedroom of the apartment. Sgt. Sanchez opened a closet door and searched for the knife (**Allegation C**). Sgt.

Sanchez found, in an open shoebox on a shelf in the closet, a pellet gun. Sgt. Sanchez retrieved the pellet gun and later gave it to PO Curran.

§ 87(2)(b) had remained in the apartment, in shock, and was questioned by two officers as to the location of the knife. As § 87(2)(b) was questioned, various officers, including Sgt. Simmons and PO Angeles, searched the apartment for the weapon. From where she stood in the living room, § 87(2)(b) saw a plainclothes officer open a kitchen drawer (**Allegation D**).

After searching the apartment but finding no knife, the officers left the apartment. § 87(2)(b) was arrested and charged with § 87(2)(b) (Board Review 04). § 87(2)(b) was arrested and charged with § 87(2)(b) (Board Review 05). She was also summonsed for § 87(2)(b) (Board Review 06). § 87(2)(b)

Mediation, Civil and Criminal Histories

This case was deemed unsuitable because of arrests without DAT. § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

This is § 87(2)(b)'s second CCRB complaint and § 87(2)(b)'s first.

Sgt. Sanchez had been a member of the service for nineteen years. Sgt. Simmons has been a member of the service for thirteen years. PO Angeles has been a member of the service for five years. There are no substantiated allegations against none of them, § 87(2)(g)

Potential Issues

Despite exhaustive attempts, the investigation has been unable to obtain a statement from § 87(2)(b) (see Investigative Actions).

The investigation has found that multiple units from the 44th Precinct responded to § 87(2)(b)'s call to 911. In particular, all parties interviewed agreed that there were upwards of eight officers inside the apartment during the incident. Despite extensive attempts, including eight officer interviews, the investigation has only been able to solidly identify five officers inside the apartment – Sgt. Sanchez, Sgt. Simmons, PO Angeles, and Sgt. Sanchez's two Anti-Crime officers, PO Cruver and PO Kelly.

Findings and Recommendations

Allegations not pleaded

- § 87(2)(g) [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A – Abuse of Authority: Officers entered § 87(2)(b) in the Bronx.

It is undisputed that, at approximately 10:00PM on December 26, 2014, § 87(2)(b) called 911 to report that he had just been stabbed in the face with a knife inside § 87(2)(b), in the Bronx (see the 911 call, Board Review 10). § 87(2)(b) stated in the call that he did not know the perpetrator's name, but described him as a Puerto Rican male wearing black sweatpants and a white T-shirt. It is similarly undisputed that multiple officers of the 44th Precinct responded to the 911 report and, at different times, entered the apartment with this information in mind.

The apartment in question was occupied by § 87(2)(b) and § 87(2)(b) who corroborated that there was a violent dispute between § 87(2)(b) and § 87(2)(b) that occurred immediately before any officers responded to the apartment, though neither stated that § 87(2)(b) stabbed § 87(2)(b) (Board Review 02 and Board Review 03). § 87(2)(b) stated further that no officers entered the apartment until after he had been handcuffed and removed from the apartment. This was corroborated by PO Curran, the arresting officer, and by PO Angeles, his partner (Board Review 11 and Board Review 12). PO Angeles also stated that, as the officers spoke to § 87(2)(b) at the door of the apartment, he noticed droplets of blood on the floor of the apartment. Sgt. Simmons stated that he saw a trail of blood from the entrance of the building leading directly to § 87(2)(b) (Board Review 13).

It is undisputed that, once in the apartment, multiple officers visually inspected the apartment, walking from room to room to ensure that no one else was injured and that no danger remained. A search warrant was not in effect at this time (Board Review 14)

In *People v. Mitchell* (1976; 39 N.Y.2d 173), it was decided that warrantless entries are acceptable if the following emergency criteria are met: (1) that the police have reasonable grounds to believe that there is an emergency, that is, an immediate threat to life and property, (2)

that the search is not primarily motivated by the intent to arrest and seize evidence, and (3) that there is probable cause, or at least a reasonable basis thereof, to associate the emergency with the area or place to be searched (Board Review 15).

Furthermore, once inside a private dwelling, officers are entitled to perform a “protective sweep” if there exists a reasonable threat to the safety of the officers and of any occupants in the dwelling (*Maryland v. Buie*, 1990; 494 U.S. 325; 110 S. Ct. 1093; Board Review 16).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Allegation B – Abuse of Authority: PO Ivan Angeles searched § 87(2)(b) [REDACTED] in the Bronx.
Allegation C – Abuse of Authority: Sgt. Miguel Sanchez searched § 87(2)(b) [REDACTED], in the Bronx.

PO Angeles admitted that, once inside the apartment, he opened closed drawers in the bathroom expressly to find the knife, which he assumed remained in the apartment (Board Review 12). PO Angeles described the drawers as being quite small, § 87(2)(g) [REDACTED]. After finding nothing of consequence, he left the bathroom and looked over to the living room, where he found a woman being interrogated by officers about the whereabouts of the knife. Before seeing this woman, PO Angeles did not believe that anyone had remained in the apartment after § 87(2)(b) [REDACTED] had been removed.

Sgt. Sanchez, PO Cruver, and PO Kelly entered the apartment after most of the officers had already arrived; indeed, Sgt. Sanchez stated that he ordered several officers to leave the apartment as he believed there were too many (Board Review 09). Furthermore, Sgt. Sanchez believed that the perpetrator had been long removed from the apartment by the time he and his officers arrived, and he stated that he had no information as there being other people inside the apartment apart from § 87(2)(b) who was being interrogated by other officers.

Sgt. Sanchez admitted to entering the bedroom with PO Cruver and PO Kelly. He admitted that he was only concerned with finding the knife involved in the assault. He went directly to a closed closet with a broken key in the handle. After some resistance, he opened the closet door and found a pellet gun, which lay in an open shoe box.

As already noted, the investigation found that no search warrant for the apartment existed at the time of the incident (Board Review 14).

In *People v. Jenkins* (2014; No. 148), the New York State Court of Appeals ruled that, even in the event of a warrantless entry justified by an exigent circumstance or emergency, a search of closed containers for arrest evidence is unreasonable if the exigency of the situation has been abated, specifically if all the people inside the apartment are under appropriate police supervision (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: An officer searched § 87(2)(b) in the Bronx.

§ 87(2)(b) stated that, as she was being interrogated by officers in the living room, she could see a white male officer in plainclothes open a drawer in the kitchen (Board Review 03).

None of the officers interviewed admitted to opening a drawer in the kitchen (see officer statements) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date